

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

EDWARD TAVARES,
Petitioner,

v.

STEVEN O'BRIEN,
Respondent.

Civil Action No. 04-40059-FDS

MOTION TO SET DATE FOR RESPONSE TO HABEAS CORPUS PETITION

The respondent, Steven O'Brien, respectfully requests that the Court set a date by which the respondent is to file his answer or other responsive pleading to the petitioner's habeas corpus petition. The respondent respectfully requests that this Court order him to file by November 22, 2004.

On May 18, 2004, the respondent moved this Court to order the petitioner to submit a habeas corpus petition in compliance with 28 U.S.C. § 2254 Rule 2(c). This Court allowed the motion on September 7, 2004. The petitioner subsequently complied with the order. The respondent, through undersigned counsel is actively working on this case. Currently, he is awaiting the delivery of documents from the Office of the District Attorney for the Bristol District. Upon receipt of these documents, undersigned counsel will continue to analyze whether he will file an answer or press any affirmative defenses on respondent's behalf. Although undersigned counsel is presently working on several other matters, he anticipates filing an answer or other responsive pleading in this case by November 22, 2004, and respectfully requests that Court enter an order permitting him to file by that date.

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Respectfully submitted,

THOMAS F. RILEY
ATTORNEY GENERAL

/s/ Daniel I. Smulow
Daniel I. Smulow, BBO 641668
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Dated: October 22, 2004

Certificate of Compliance with Local Rule 7.1(A)(2)

I, Daniel I. Smulow, hereby certify that I am unable to speak to the petitioner because he is presently incarcerated.

/s/ Daniel I. Smulow

Certificate of Service

I hereby certify that a true copy of the above document was served on Edward Tavares, *pro se*, N.C.C.I. - Gardner, P.O. Box 466, 500 Colony Road, Gardner, MA 01440, by first class mail, postage prepaid, on October 22, 2004.

/s/ Daniel I. Smulow